

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
TYSON POULOS,

Plaintiff,

-against-

Index No.:
07-cv-1192 (FJS)(RST)

COUNTY OF WASHINGTON, SHERIFF ROGER W.
LECLAIRE, CORRECTION OFFICER ED CUCCHI,
SERGEANT RONALD THOMAS, SERGEANT
WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH,
DEPUTY SHERIFF CORY HULBERT,
CORRECTION OFFICER DANIEL BREEYEAR,
CORRECTION OFFICER BRIAN PURNER, SERGEANT
BRIAN GILLIS, SERGEANT ARON BASSETT,
CORRECTION OFFICER CRAIG WATROUS, CORRECTION
OFFICER PAUL LITTLE, CORRECTION OFFICER
CHRISTOPHER STRAIN, CORRECTION OFFICER
ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP,
AND CORRECTION OFFICER NEIL HAFNER,

**SECOND AMENDED
COMPLAINT**

Defendants.
-----X

Plaintiff TYSON POULOS by his attorneys, TRACIE A. SUNDACK & ASSOCIATES,
L.L.C., complaining of the Defendants, COUNTY OF WASHINGTON, SHERIFF ROGER W.
LECLAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS,
SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF
CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION
OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT,
CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE,
CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY
WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL
HAFNER, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for violations of his civil rights, as said rights are secured by said statutes and the Constitutions of the State of New York and the United States. Plaintiff also asserts supplemental state law tort claims.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988, and the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments to the United States Constitution.

3. Jurisdiction is founded under 28 U.S.C. §§ 1331, 1343 and 1367.

VENUE

4. Venue is properly laid in the Northern District of New York under U.S.C. § 1391(b), in that this is the District in which the claim arose.

JURY DEMAND

5. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

6. Plaintiff TYSON POULOS is a citizen of the United States, and was at all relevant times a resident of the State of New York. At all relevant times, Plaintiff was incarcerated in the Washington County Jail, located at 399 Broadway, Fort Edward, New York 12828, County of Washington.

7. Defendant COUNTY OF WASHINGTON was and is a municipal corporation duly organized and existing under and by virtue of the General Municipal Law of the State of New York.

8. Defendant COUNTY OF WASHINGTON maintains the Washington County Sheriff's Department, Corrections Division, including all the correction officers thereof, a duly authorized corrections/penal department, under the Corrections Law, Penal Law, Municipal Law and County Law of the State of New York, authorized to perform all functions of a corrections/penal department acting under the direction, control and supervision of the aforementioned municipal corporation, COUNTY OF WASHINGTON.

9. That at all times hereinafter mentioned, Defendant SHERIFF ROGER W. LECLAIRE was the Sheriff of Washington County and, among his duties, was charged with the oversight of correction officers employed by the County of Washington, its agents, servants or employees including, but not limited to the Washington County Sheriff's Department, Corrections Division, as well as the Washington County Jail.

10. That at all times hereinafter mentioned, Defendants CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER, were employed by the County of Washington, its agents, servants or employees including, but not limited to the Washington County Sheriff's Department, Corrections Division.

11. That at all times hereinafter mentioned Defendants SHERIFF ROGER W. LECLAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS,

SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER were assigned to the Washington County Jail located at 399 Broadway, Fort Edwards, New York 12828.

12. That at all times hereinafter mentioned, Defendants SHERIFF ROGER W. LECLAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER acted within the scope of their employment.

13. That at all times hereinafter mentioned, Defendant SHERIFF ROGER W. LECLAIRE was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County of Washington, State of New York, and under the authority of his office as the Sheriff for said county.

14. That at all times hereinafter mentioned, Defendants SHERIFF ROGER W. LECLAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS,

SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County of Washington, State of New York, and under the authority of their office as correction officers for said county.

FACTS

15. That from October 3, 2006 until December 14, 2006, Plaintiff TYSON POULOS was an inmate in the control and custody of the Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division, incarcerated under Booking Number 20060773, and confined to the Washington County Jail located at located at 399 Broadway, Fort Edwards, New York 12828.

16. That at the aforementioned time and place, and throughout the entirety of Plaintiff's incarceration, Defendant SHERIFF ROGER W. LECAIRE took no action to protect the well-being of Plaintiff TYSON POULOS, an inmate under his control and supervision.

17. That on October 4, 2006 Defendants CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR and LIEUTENANT GEORGE SMITH, without reasonable basis and in violation of regulation, procedure, and protocol, placed Plaintiff in a 'restraint chair,' in his underwear for several hours in front of female officers.

18. That on October 13, 2006, Plaintiff was assaulted by an inmate, Neal Greene as result of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE failure to properly classify Plaintiff and that such assault was a result of failure of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE to properly separate Plaintiff from inmate Greene who had been designated for 'keeplock' and despite the known violent propensities of inmate Greene.

19. That on October 17, 2006, correction officers, under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, improperly and without cause, confiscated a number of pieces of mail and magazines from Plaintiff and, contrary to regulation, procedure and protocol, failed to notify Plaintiff of such seizure.

20. That on or about October 18, 2006, correction officers, under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, abusing the authority inherent in their office, harassed and tried to intimidate Plaintiff into withdrawing grievances he had filed.

21. That on October 22, 2006, Plaintiff was assaulted by an inmate, Shameek Thomas, a Federal detainee, as result of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE failure to properly classify Plaintiff and that such

assault was a result of failure of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE to properly separate sentenced detainees from pretrial detainees and despite the known violent propensities of inmate Thomas.

22. That on October 22, 2006, Defendants DEPUTY SHERIFF CORY HULBERT, LIEUTENANT GEORGE SMITH and CORRECTION OFFICER DANIEL BREEYEAR placed Plaintiff in 'keeplock' as a result of an incident involving another inmate Shameek Thomas, a Federal detainee. Plaintiff was kept in 'keeplock' until November 29, 2006 at the direction of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, despite an admission by inmate Thomas that he was the aggressor and Plaintiff was the victim, and without a disciplinary hearing or plea bargaining to assess culpability and without written notification that he was to be placed in administrative segregation.

23. That on October 22, 2006, correction officers, under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE improperly ordered other inmates to pack Plaintiff's property resulting in lost and/or stolen items.

24. That on October 23, 2006, correction officers, under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, improperly and without cause or reasonable basis, forced Plaintiff to remove his clothing and remain naked.

25. That on October 23, 2006, Defendant DEPUTY SHERIFF CORY HULBERT

physically assaulted Plaintiff TYSON POULOS.

26. That on October 23, 2006, Defendants SERGEANT RONALD THOMAS and LIEUTENANT GEORGE SMITH prepared, filed and/or knowingly took a false report regarding the assault of Plaintiff.

27. That on October 23, 2006 and October 24, 2006 Defendant CORRECTION OFFICER "JOHN" PURNER abusing the authority inherent in his office, harassed and tried to intimidate Plaintiff, both in or near Plaintiff's cell and during a parole board hearing, into withdrawing grievances he had filed regarding the actions of various correction officers.

28. That on November 11, 2006, at approximately 7:15 p.m., Plaintiff was accosted by members of the Washington County Sheriff's Office, Corrections Division, including, but not limited to, Defendants SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN AND CORRECTION OFFICER BRIAN TRIPP.

29. That on November 11, 2006, at approximately 7:15 p.m., Plaintiff was accosted by members of the Washington County Sheriff's Office, Corrections Division, including, but not limited to, Defendants SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN AND CORRECTION OFFICER BRIAN TRIPP forced Plaintiff to strip and remain naked.

30. That at the aforementioned time and place, Defendants SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER

STRAIN AND CORRECTION OFFICER BRIAN TRIPP, physically assaulted, with the use of a chemical agent, Plaintiff.

31. That on November 11, 2006, Defendants SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN AND CORRECTION OFFICER BRIAN TRIPP prepared, filed and/or knowingly took a false report regarding the assault of Plaintiff.

32. That on November 12, 2006, correction officers, including but not limited to Defendants SERGEANT WILLIAM BREEYEAR, CORRECTION OFFICER ZACHARY WILBUR, SERGEANT BRIAN GILLIS and CORRECTION OFFICER NEIL HAFNER under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, without reasonable basis and in violation of regulation, procedure, and protocol, placed Plaintiff in a 'restraint chair' in his underwear for several hours in front of female officers.

33. That on November 22, 2006, correction officers, under the supervision of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE, without reasonable basis and in violation of regulation, procedure, and protocol, placed Plaintiff in a 'restraint chair.'

34. As a result of the above listed acts, Plaintiff TYSON POULOS sustained physical injuries, suffered emotional distress, embarrassment, humiliation, and was deprived of his constitutional rights.

FIRST CLAIM FOR RELIEF
DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983

35. Plaintiff TYSON POULOS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

36. All of the aforementioned acts of Defendants, their agents, servants and/or employees were carried out under the color of state law.

37. All of the aforementioned acts deprived Plaintiff TYSON POULOS of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, in violation of 42 U.S.C. § 1983.

38. That the Defendants violated Plaintiff's civil rights by improperly classifying Claimant; failure to protect Claimant from assault by other inmates despite those inmates' known propensity for violence; failure to properly separate inmates designated for 'keeplock' from other inmates including Claimant; disciplining Claimant without due process; violating Claimant's right to be protected from cruel and unusual punishment; in retaliating against Claimant for his proper use of the facility's grievance procedure; stripping Claimant of his clothes; physically assaulting Claimant; spraying Claimant with OC spray; placing Claimant in a restraint chair nude and partially nude; failing to properly investigate Claimant's allegations; in ignoring Claimant's grievances and leaving the underlying claims unaddressed. and, failing to record incidents, providing false statements and altering documents and reports, all in violation of Federal, State and local law.

39. That as a result of the foregoing, Plaintiff TYSON POULOS was caused to be subjected to the deprivations of rights, privileges and/or immunities secured by the Constitution

and laws of the State of New York and the United States of America, and has been damaged thereby, all in violation of 42 USC §1983.

SECOND CLAIM FOR RELIEF
EXCESSIVE FORCE UNDER 42 U.S.C. § 1983

40. Plaintiff TYSON POULOS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

41. The level of force employed by the Defendants was objectively unreasonable and in violation of Plaintiff TYSON POULOS's constitutional rights.

42. That Defendants violated Plaintiff's rights under the Eight Amendment to be free from cruel and unusual punishment, by being deliberately indifferent to Plaintiff's serious medical needs and by failing to provide necessary protective services.

43. As a result of the aforementioned conduct of the Defendants, Plaintiff TYSON POULOS was subjected to excessive force and sustained physical injuries.

THIRD CLAIM FOR RELIEF
MUNICIPAL LIABILITY

44. Plaintiff TYSON POULOS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

45. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

46. The aforementioned customs, policies, usages, practices, procedures and rules of the COUNTY OF WASHINGTON and the and the Washington County Sheriff's Office, Corrections

Division included, but were not limited to: a) ignoring the rights of inmates under their control and depriving said inmates of due process; b) using force in an unreasonable, unnecessary, and unjustified manner; c) using force with the purpose and intent of maliciously and sadistically punishing individuals in their custody; and d) failing to adequately instruct and supervise the correction officers under the direction and control of the COUNTY OF WASHINGTON in the proper deployment and appropriateness of use of a chemical agent.

47. The foregoing customs, policies, usages, practices, procedures and rules of COUNTY OF WASHINGTON and the and the Washington County Sheriff's Office, Corrections Division constituted deliberate indifference to the safety, well- being and constitutional rights of Plaintiff TYSON POULOS.

48. The foregoing customs, policies, usages, practices, procedures and rules of COUNTY OF WASHINGTON and the and the Washington County Sheriff's Office, Corrections Division were the direct and proximate cause of the constitutional violations suffered by Plaintiff TYSON POULOS as alleged herein.

49. The foregoing customs, policies, usages, practices, procedures and rules of COUNTY OF WASHINGTON and the and the Washington County Sheriff's Office, Corrections Division were the moving force behind the constitutional violations suffered by Plaintiff TYSON POULOS as alleged herein.

50. Defendants, collectively and individually, while acting under the color of state law, were directly and actively involved in violating Plaintiff TYSON POULOS' constitutional rights.

51. All of the foregoing acts by defendants deprived Plaintiff TYSON POULOS of federally protected rights including, but not limited to, the right:

A. Not to have excessive force imposed upon him;

B. Not to have cruel and unusual punishment imposed upon him;

C. To receive equal protection under the law.

52. As a result of the foregoing, Plaintiff TYSON POULOS is entitled to compensatory damages in the sum of Two Million Dollars (\$2,000,000.00) and is further entitled to punitive damages against the individual defendants in the sum of Five Million Dollars (\$5,000,000.00)

PENDANT STATE CLAIMS

53. Plaintiff TYSON POULOS repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

54. On or about January 29, 2008, the Honorable David B. Krogmann, JSC, granted Plaintiff's application to file a late Notice of Claim.

54. On February 19, 2008, Plaintiff TYSON POULOS duly presented, served and filed a Notice of Claim, in writing, upon the COUNTY OF WASHINGTON setting forth the name and post office address of claimant and his attorneys; the nature of the claim, the time when, the place where, and the manner in which the claim arose.

55. A Municipal Hearing pursuant to section 50-h of the General Municipal Law was held on Tuesday, April 8, 2008.

56. This action is commenced, including all applicable tolls, within a year and ninety days after said cause of action arose.

57. This action falls within one or more of the exceptions set forth in CPLR §1602.

FIRST CLAIM FOR RELIEF UNDER NEW YORK STATE LAW
NEGLIGENT TRAINING AND SUPERVISION

58. Plaintiff TYSON POULOS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges:

59. The failure of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE to adequately train CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER in the exercise of their employment functions, and his failure to enforce the laws of the State of New York and the regulations of Washington County is evidence of the reckless lack of cautious regard for the rights of the public including Plaintiff TYSON POULOS. Further, the Defendant SHERIFF ROGER W. LECLAIRE exhibited a lack of that degree of due care which prudent and reasonable individuals would show.

60. The failure of Defendant COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE to adequately train, supervise, discipline or in any way control the behavior of Defendants CORRECTION OFFICER ED CUCCHI, SERGEANT

RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER in the exercise of their employment functions and his failure to enforce the laws of the State of New York and the regulations of Washington County, was carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of New York, including Plaintiff TYSON POULOS.

SECOND CLAIM FOR RELIEF UNDER NEW YORK STATE LAW
NEGLIGENT HIRING AND RETENTION

61. Plaintiff TYSON POULOS repeats, reiterates, and realleges each and every paragraph of this complaint and further alleges

62. That Defendants COUNTY OF WASHINGTON, its agents, servants and employees, including the Washington County Sheriff's Office, Corrections Division and Defendant SHERIFF ROGER W. LECAIRE were careless and reckless in hiring and retaining as and for their employees Defendants CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT

ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER, in that said defendant employees lacked the experience, deportment and ability to be employed by Defendant COUNTY OF WASHINGTON; in that Defendant COUNTY OF WASHINGTON failed to exercise due care and caution in its hiring practices, and in particular, in hiring the defendant employee who lacked the mental capacity and the ability to function as employees of Defendant COUNTY OF WASHINGTON; in that the defendant employees lacked the maturity, sensibility and intelligence to be employed by Defendant COUNTY OF WASHINGTON; in that Defendant COUNTY OF WASHINGTON knew of the lack of ability, experience, deportment and maturity of said defendant employees when they hired them to be an employee; in that Defendant COUNTY OF WASHINGTON, its agents, servants and/or employees failed to suspend and/or terminate defendant employees when such action was either proper or required; and, in that Defendant COUNTY OF WASHINGTON, its agents, servants and/or employees were otherwise careless, negligent and reckless.

63. Defendant COUNTY OF WASHINGTON knew, or should have known in the exercise of reasonable care, the propensities of the Defendants SHERIFF ROGER W. LECAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE,

CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER, to engage in the wrongful conduct heretofore alleged in this Complaint.

THIRD CLAIM FOR RELIEF UNDER NEW YORK STATE LAW: ASSAULT

64. Plaintiff TYSON POULOS repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

65. Defendants' aforementioned acts placed Plaintiff TYSON POULOS in apprehension of imminent harmful and offensive bodily contact.

66. As a result of Defendants' conduct, Plaintiff TYSON POULOS has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

FOURTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW: BATTERY

67. Plaintiff TYSON POULOS repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

68. Defendants' touched Plaintiff TYSON POULOS in a harmful and offensive manner.

69. Defendants' did so without privilege or consent from Plaintiff TYSON POULOS.

70. As a result of Defendants' conduct, Plaintiff TYSON POULOS has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

DAMAGES

71. As a result of Plaintiff's injuries from the violations of Plaintiff's civil rights, Plaintiff TYSON POULOS is entitled to compensatory damages in the sum of Two Million Dollars (\$2,000,000.00) and is further entitled to punitive damages against the individual defendants in the sum of Five Million Dollars (\$5,000,000.00).

72. As a result of Plaintiff's injuries from the State Claims, Plaintiff is entitled to a sum which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction of this action.

WHEREFORE Plaintiff TYSON POULOS demands judgment against Defendants COUNTY OF WASHINGTON, SHERIFF ROGER W. LECLAIRE, CORRECTION OFFICER ED CUCCHI, SERGEANT RONALD THOMAS, SERGEANT WILLIAM BREEYEAR, LIEUTENANT GEORGE SMITH, DEPUTY SHERIFF CORY HULBERT, CORRECTION OFFICER DANIEL BREEYEAR, CORRECTION OFFICER BRIAN PURNER, SERGEANT BRIAN GILLIS, SERGEANT ARON BASSETT, CORRECTION OFFICER CRAIG WATROUS, CORRECTION OFFICER PAUL LITTLE, CORRECTION OFFICER CHRISTOPHER STRAIN, CORRECTION OFFICER ZACHARY WILBUR, CORRECTION OFFICER BRIAN TRIPP, AND CORRECTION OFFICER NEIL HAFNER, jointly and severally, in the amount of Two Million Dollars (\$2,000,000.00) in compensatory damages and Five Million Dollars (\$1,000,000.00) in punitive damages, plus reasonable attorney's fees, costs and disbursements of this action.

Dated: White Plains, New York
April 28, 2008

S/

TRACIE A. SUNDACK & ASSOCIATES, L.L.C.
By: Tracie A. Sundack
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